

## HOUSE BILL NO. 364

INTRODUCED BY MAEDJE

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES TO FACILITATE MAIL-ORDER PURCHASE OF CERTAIN PRESCRIPTION DRUGS FROM CANADA; PROVIDING THAT THE DEPARTMENT ALLOW PHARMACIES TO PARTICIPATE IN BULK PURCHASING; AND AMENDING SECTIONS 37-7-603 AND 37-7-703, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Department to facilitate mail-order purchase of Canadian pharmaceuticals.** (1) (A) The department shall facilitate the purchase of pharmaceuticals from Canadian pharmacies that are registered with the board of pharmacy as required by 37-7-703.

(B) PHARMACEUTICALS PURCHASED FROM CANADIAN PHARMACIES UNDER THIS SECTION MUST HAVE BEEN MANUFACTURED IN THE UNITED STATES OR, IF MANUFACTURED IN ANOTHER COUNTRY, MUST HAVE BEEN MANUFACTURED BY A COMPANY HOLDING A UNITED STATES PATENT FOR THE PHARMACEUTICAL MANUFACTURED IN THE OTHER COUNTRY.

(2) The department shall establish a website to provide access to ~~Montanans~~ MONTANA-LICENSED PHARMACISTS who wish to purchase a prescription drug from a registered pharmacy in Canada.

(3) The department, in cooperation with the board of pharmacy, may issue a request for proposals, visit, and inspect the pharmacies prior to any inclusion on the website.

**Section 2.** Section 37-7-603, MCA, is amended to read:

**"37-7-603. Prohibited purchase or receipt of drugs -- restrictions on wholesale drug distributors -- penalty.** (1) Except as otherwise provided, it is unlawful for a person to knowingly purchase or receive a prescription drug from a source other than a person or entity licensed under part 7 or this part.

(2) Licensed wholesale drug distributors other than pharmacies may not dispense or distribute prescription drugs directly to patients.

(3) A person who violates the provisions of this section is guilty of a misdemeanor."

**Section 3.** Section 37-7-703, MCA, is amended to read:

1       **"37-7-703. Registration requirements. (1)** Each out-of-state mail service pharmacy must be  
2 registered with the board of pharmacy. In order to be registered with the board to do business in this state and  
3 for the renewal of its registration, an out-of-state mail service pharmacy:

4       ~~(4)~~ (a) (i) shall submit a certificate from the appropriate licensing authority with which it is currently  
5 licensed and in good standing in the state in which its dispensing facilities are located; and

6       ~~(b)~~(ii) shall comply with all applicable laws, regulations, and standards of that state and the United  
7 States and, if requested by the board, provide evidence that it has complied;

8       ~~(2)~~(b) shall register with the board and provide information on ownership and location, including the  
9 names and titles of the corporate officers, of the out-of-state mail service pharmacy and the identity of a  
10 pharmacist licensed in the state in which the pharmacy is located who is in charge of dispensing prescriptions  
11 for shipment to Montana from the out-of-state mail service pharmacy;

12       ~~(3)~~(c) shall submit a utilization plan for the employment of pharmacy technicians if allowed by the state  
13 where the mail service pharmacy is located. If the state in which the pharmacy is located does not establish a  
14 ratio of technicians to pharmacists for determining the number of pharmacy technicians or otherwise define the  
15 role of the pharmacist in compounding or dispensing drugs at the pharmacy, then the out-of-state mail service  
16 pharmacy may not allow a pharmacist to supervise more than one supportive person at any one time in the  
17 compounding or dispensing of prescription drugs, unless approved by the board as provided in 37-7-307 through  
18 37-7-309.

19       ~~(4)~~(d) shall submit to the board proof of the pharmacist's good standing with the licensing authority in  
20 the state where the pharmacist is employed and the pharmacist's written commitment to comply with the  
21 utilization plan, if any, for each pharmacist identified under subsection ~~(2)~~ (1)(b) and shall provide to the board  
22 the same toll-free telephone service referenced in 37-7-706 in order to comply with all information requests by  
23 the board; and

24       ~~(5)~~(e) shall pay an initial registration fee and a periodic renewal fee in an amount to be determined by  
25 the board and at a time established by the department by rule.

26       (2) (a) The board shall provide for registration of pharmacies from Canada as out-of-state pharmacies  
27 upon compliance with the conditions of this section.

28       (b) The department shall require any Canadian pharmacy applying for registration to maintain  
29 membership in the Canadian international pharmacy association and to agree to accept prescriptions only from  
30 a health care provider licensed in this state for distribution to Montana residents."

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2        **NEW SECTION. Section 4. Bulk purchasing of prescription drugs -- pharmacies allowed --**  
3 **rulemaking authority.** (1) The department shall develop ~~and participate in~~ AND PARTICIPATE IN intraagency,  
4 intrastate, or interstate bulk-purchasing arrangements for the purchase of prescription drugs ~~for use by the~~  
5 ~~department for persons under its care.~~

6        (2) The department shall develop a program by which pharmacies licensed under Title 37, chapter 7,  
7 may participate in any bulk-purchasing arrangement under subsection (1). The department may adopt terms  
8 and conditions for participation by licensed pharmacies in the program by rule.

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10       **NEW SECTION. Section 5. Codification instruction.** (1) [Section 1] is intended to be codified as an  
11 integral part of Title 50, chapter 31, part 3, and the provisions of Title 50, chapter 31, part 3, apply to [section 1].

12       (2) [Section 4] is intended to be codified as an integral part of Title 53, chapter 6, part 10, and the  
13 provisions of Title 53, chapter 6, part 10, apply to [section 4].  
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15       **NEW SECTION. SECTION 6. CONTINGENT AUTHORIZATION.** (1) IF CANADA PROHIBITS THE SALE OF  
16 PHARMACEUTICAL DRUGS TO THE UNITED STATES, OR ENACTS LAWS THAT HAVE THE EFFECT OF PREVENTING THIS  
17 PROGRAM TO BE USED, THE GOVERNOR IS AUTHORIZED TO IMPLEMENT 37-7-703 AND [SECTION 1] WITH THE COUNTRIES  
18 IN THE EUROPEAN UNION, ISRAEL, AUSTRALIA, NEW ZEALAND, OR CHILE.

19       (2) THE GOVERNOR SHALL NOTIFY THE CODE COMMISSIONER OF THE IMPLEMENTATION OF SUBSECTION (1).  
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21       **NEW SECTION. SECTION 7. CONTINGENT VOIDNESS.** (1) THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN  
22 SERVICES SHALL SEEK A DETERMINATION FROM THE APPROPRIATE FEDERAL AGENCY WHETHER [THIS ACT] IS IN  
23 COMPLIANCE WITH FEDERAL LAW OR REGULATIONS, AND IF [THIS ACT] IS DETERMINED TO BE IN VIOLATION OF FEDERAL  
24 LAW OR REGULATIONS, [THIS ACT] IS VOID.

25       (2) UPON A DETERMINATION THAT [THIS ACT] IS OR IS NOT IN VIOLATION OF FEDERAL LAW OR REGULATION, THE  
26 DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES SHALL NOTIFY THE CODE COMMISSIONER OF THE DETERMINATION.  
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